LIM THIAN HOK & ORS.

v.

MINISTER OF HOME AFFAIRS & ANOR.

HIGH COURT MALAYA, PENANG
VINCENT NG JC
[CRIMINAL APPLICATION NO. 44-65-92 & TEN OTHER APPLICATIONS]
19 SEPTEMBER 1992

PREVENTIVE DETENTION: *Detention order under s. 6(1) of Dangerous Drugs (Preventive Measures Act) Act 1985 - Whether amenable to judicial review.*

CONSTITUTIONAL LAW: *Detention order - Communication of grounds of detention - Communication in a language not known to detenu or unsatisfactorily made - Whether detention orders were valid as per Article 5(3) of the Federal Constitution and Rules 3 of the Dangerous Drugs (Special Preventive Measures) (Advisory Board Procedure) Rules 1987.*

STATUTORY INTERPRETATION : *"Has been or is associated" in s. 6(1) of Dangerous Drugs (Special Preventive Measures) Act 1985 - Whether to be read disjunctively.*

The eleven detenus in their applications for writs of *habeas corpus*, challenged the validity of their detention under s. 6(1) of the Dangerous Drugs (Special Preventive Measures) Act 1985 ("the Act") and s. 4(1) of the Emergency (Public Order and Prevention of Crime) Ordinance 1969 ("the Ordinance"), on the following two grounds:

(i) that the detention orders were bad on account of non-compliance with:

  (a) Section 6(1) of the Act in respect of CA Nos. 44-190-90, 44-72-91, 44-100-91, 44-127-91, 44-130-91, 44-133-91, 44-159-91, 44-198-91, 44-219-91 and 44-39-92 ("the ten applications"), and

  (b) Section 4(1) of the Ordinance in respect of CA No. 44-65-92; and

(ii) that the grounds of detention were not properly or satisfactorily communicated to the detenus and therefore contrary to Article 5(3) of the Federal Constitution and r. 3(1) of the Dangerous Drugs (Special Preventive Measures) (Advisory Board Measures) Rules 1987.

As the detention order against the detenu in CA No. 44-65-92 was suspended before the delivery of the judgment, his application for a writ of *habeas corpus* was struck out and the issue in 1(b) above therefore did not arise.

As to issue in 1(a), above, the applicants' Counsel sought to impugn the detention orders as they had stated both grounds of detention as found in s. 6(1) which reads, *inter alia* "... has been or is associated with activity relating to or involving the trafficking of dangerous drugs". Further, he contended that different or more than one language/dialect had been used in various stages of detention to communicate the grounds of arrest.

Held:

[1] The invoking of s. 6(1) of the Act by the detaining authorities need not be specific as both grounds in the said section refers to one and the same and should be read conjunctively. Therefore, the authorities could not be said to have made the detention order vaguely or mechanically.

[2] Failure to communicate the grounds of detention to the detenus properly or satisfactorily resulted in violation of Article 5(3) of the Federal Constitution and r. 3(1) of the Dangerous Drugs (Special Preventive Measures) (Advisory Board Procedure) Rules 1987 and therefore the detention orders with respect of detenus in CA No. 44-190-90, 44-72-91 and 44-100-91 were bad in law.

[3] However, *habeas corpus* writs were refused for other applicants as their detention orders fulfilled the requirements of relevant law.

[4] The use of different or more than one language/dialect to explain the grounds of detention was not fatal *per se* as long as the respondents could show that the detenus understood the grounds of detention.

[Writs of habeas corpus issued in respect of applicants in CA Nos. 44-190-90, 44-72-91 and 44-100-91 only.]

Cases referred to:
Koh Yoke Koon v. Menteri Dalam Negeri [1988] 1 MLJ 45 ***(refd)***
Puvaneswaran v. Menteri Hal Ehwal Dalam Negeri [1991] 3 CLJ (Rep) 649 ***(refd)***
Poh Chin Kay v. Menteri Hal Ehwal Dalam Negeri Malaysia [1990] 2 MLJ 297 ***(refd)***
PP v. Koh Yoke Koon [1988] 1 CLJ (Rep) 269 ***(refd)***
Ex parte Johannes Choeldi & Ors. [1960] 26 MLJ 184 ***(refd)***
The King v. Secretary of State for Home Affairs, Ex parte Lees [1941] 1 KB 72 ***(foll)***
Ananta Mukhi @ Ananta Hari v. State of Bengal [1972] 1 SCC 580 ***(foll)***
Kishori Mohan Bera v. The State of West Bengal [1972] 3 SCC 845 ***(foll)***
Karam Singh v. Menteri Hal Ehwal Dalam Negeri [1969] 2 MLJ 129 (foll)
Icchu Devi Choraria v. Union of India [1980] 4 SCC 531; [1981] SCC (Cri) 25 ***(dist)***
Liew Kim Swee v. Menteri Dalam Negeri, Malaysia & Anor. [1991] 1 CLJ (Rep) 672 ***(foll)***

Legislation referred to:
Federal Constitution, art. 5(3)
Criminal Procedure Code, s. 366
Dangerous Drugs (Special Preventive Measures) Act 1985, ss. 6(1), 11C
Dangerous Drugs (Special Preventive Measures) (Advisory Board Procedure) Rules 1987, rr. 3(1)(a), (b), (3)
Emergency (Public Order and Prevention of Crime) Ordinance 1969, ss. 4(1), 5(2), 7C
Emergency Public Order and Prevention of Crime (Procedure) Rules 1972, r. 3(1)

For the 1st applicant - Karpal Singh and V. Shanmugam
For the other 10 applicants - Karpal Singh
For the respondents - Mahmud bin Haji Abdullah and Noor Bahari, SFC; AG's Chambers

JUDGMENT

Vincent Ng JC:

At the request of both parties all the above criminal applications were heard together as all of them (according to the parties) concerned, *inter alia*, the same common crucial issue as decided in Penang High Court Criminal Application No. 44-170-90, from which there is a current pending appeal. The above criminal applications have been adjourned on several occasions to await the disposal of the said pending criminal appeal.

The applicant in the first application was represented by Mr. Karpal Singh and Mr. V. Shanmugam and the applicants in all the other ten applications were represented by Mr. Karpal Singh, while the respondents were represented by Senior Federal Counsel Mr. Mahmud bin Haji Abdullah and Mr. Noor Bahari.

These are applications for writs of *habeas corpus* which, as the Counsels have agreed at the outset of the hearing, are confined to only two grounds.

Firstly, the applicants had challenged the validity of the detention orders on grounds that they were bad on their face due to non-compliance with:

(a) Section 6(1) of the Dangerous Drugs (Special Preventive Measures) Act 1985 ("the Act"), in respect of Criminal Applications Nos. 2 to 11 being CA Nos. 44-190-90, 44-72-91, 44-100-91, 44-127-91, 44-130-91, 44-133-91, 44-159-91, 44-198-91, 44-219-91 and 44-39-92 ("the ten applications"), and

(b) Section 4(1) of the Emergency (Public Order and Prevention of Crime) Ordinance 1969 ("the Ordinance"), in respect of the first criminal application, being CA No. 44-65-92 ("the first application").

Section 6(1) of the Act states as follows:

> Whenever the Minister, after considering:
>
> (a) the complete report of investigation submitted under subsection (3) of s. 3; and
>
> (b) the report of the inquiry officer submitted under subsection (4) of s. 5,
>
> is satisfied with respect to any person that such person has been or is associated with any activity relating to or involving the trafficking in dangerous drugs, the Minister may, if he is satisfied that it is necessary in the interest of public order that such person be detained, by order (hereinafter referred to as a "detention order") direct that such person be detained for a period not exceeding two years."

Section 4(1) of the Ordinance states:

> If the Minister is satisfied that with a view to preventing any person from acting in any manner prejudicial to public order it is necessary that that person should be detained, or that it is necessary for the suppression of violence or the prevention of crimes involving violence that that person should be detained, the Minister shall make an order (hereinafter referred to as a "detention order") directing that that person be detained for any period not exceeding two years.

Counsel for the detainees have sought to impugn the detention orders as such orders had stated both grounds of detention in the alternative, being:

(i) in regard to the ten applications concerning s. 6(1) of the Act, that the detainees "has been **or** is associated with activity relating to or involving the trafficking of dangerous drugs; and

(ii) in regard to the first application concerning s. 4(1) of the Ordinance, that the order had been made against the detainee "with the view to preventing the detainee from acting in any manner prejudicial to public order **or** the suppression of violence or the prevention of crime involving violence.

The applicants' ground as in (i) above (in respect of the ten applications) has already been decided by Edgar Joseph Jr. J (as he then was) in the case of *Ibrahim bin Ismail v. Menteri Hal Ehwal Dalam Negeri Malaysia* in Criminal Application No. 44-170-90. It was submitted by Mr. Karpal Singh that the learned Judge held in that case that only if procedural requirements are contravened the Court could intervene, but not when technical requirements are not complied with. I was urged to differ from that decision.

After having read the judgment, and considering his decisions in e.g. *Koh Yoke Koon v. Menteri Dalam Negeri* [1988] 1 MLJ 45 and *Puvaneswaran v. Menteri Hal Ehwal Dalam Negeri* [1991] 3 CLJ (Rep) 649 and a plethora of other decisions by the learned Judge on

habeas corpus, and his wide knowledge on the subject, I do not agree that that was what the learned Judge held or meant especially in regard to the issue of technical requirements where the *de minimis* rule is inapplicable. Neither do I conceive nor was it suggested by Counsel that the learned Judge was unaware of cases e.g. *Poh Chin Kay v. Menteri Hal Ehwal Dalam Negeri Malaysia* [1990] 2 MLJ 297. See also *PP v. Koh Yoke Koon* [1988] 1 CLJ (Rep) 269 and *Ex parte Johannes Choeldi & Ors.* [1960] 26 MLJ 184 (concerning technical defects), an authority which even s. 11C(1) of the Act and s. 7C(1) had not sought to negate.

Rather, in *Ibrahim bin Ismail* (*ibid.*), Edgar Joseph Jr. J (as he then was) had said and I quote "Moreover, it appears to me that the argument of Counsel seeks to impugn, at least indirectly, the subjective satisfaction of the Deputy Minister, a matter which is not open to judicial review ever since *Karam Singh*". He further said "The position is now *a fortiori* in view of the insertion in the Act by Act A738 on 24 August 1989, of s. 11C ..." I am in full agreement with this view and I adopt *in toto*, the same rationale and back-up authorities cited in *Ibrahim bin Ismail* (*ibid.*) to dismiss the applicants' ground as in (i) above (on s. 6(1) of the Act) in respect of the ten (10) applications. There is nothing in this point to back their applications.

I now turn to consider the applicants' ground as in (ii) above (concerning s. 4(1) of the Ordinance) in respect of the first application which, according to Counsel, is similar to the point at issue taken up by them in respect of s. 6(1) of the Act (indeed the reason for the applications being heard together). Again, on this score I am unable to agree with Counsel. To hark back, and upon closer scrutiny of the *ratio decidendi* of all the relevant cases on this issue, I wholly supported the decision in *Ibrahim bin Ismail* (*ibid.*) as I am of the view that the validity of the detention order in that case was dependent upon whether, in the expression "**has been or is associated** with any activity relating to or involving the trafficking in dangerous drugs" contained in s. 6(1) of the Act, the words underscored above should be read conjunctively or disjunctively. From the grammatical point of view and considering the normal flow of the language it is manifestly correct to say that the expression should be read conjunctively, as both alternatives refer to one and the same object, being the trafficking in dangerous drugs. In similar vein, we should consider the following expressions:

(a) "**To have been or to be a member** of or to **have been or be active** in the furtherance of the objects of an organisation ..." as in *The King v. Secretary of State for Home Affairs, Ex parte Lees* [1941] 1 KB 72.

(b) "Prejudicial to the **security of the state or the maintenance of the public order" as** in *Ananta Mukhi @ Ananta Hari v. State of Bengal* [1972] 1 SCC 580 and in *Kishori Mohan Bera v. The State of West Bengal* [1972] 3 SCC 845.

(c) "**the maintenance of the public order therein or the maintenance of essential services** therein" as in *Karam Singh v. Menteri Hal Ehwal Dalam Negeri* [1969] 2 MLJ 129.

Thus the two grounds for detention (only apparently so) in s. 6(1) of the Act, ought rightly to be read conjunctively, and the detaining authority could not be said to have made the detention order vaguely or mechanically, merely reproducing the language of the said section of the Act.

However, in regard to the first application it seems quite clear to me that what is intended in s. 4(1) of the Ordinance is to confer on the Minister the power to issue a detention order based on any one of two grounds which, by its very nature of expression, should be read disjunctively.

The first limb of the section seeks to allow the Minister to detain:

(a) a person who has acted in any manner prejudicial to public order (or, presumably social order in our society), which encompasses a whole gamut of variegated offences such as smuggling, running illegal lotteries, preaching religious heresy, or advocating communist or racist ideology, all of which do not necessarily involve violence; and

The second limb allows the Minister to detain:

(b) a person, if it is necessary for the suppression of violence or the prevention of crimes involving violence, obviously an appropriate provision for curbing gangsterism, gang-land warfare and gang violence - which necessarily involve violence or the use of violence, as emphasised in the second limb.

Furthermore, the interpolation in s. 4(1) of the Ordinance, of the following words (underscored by me) "... **it is necessary that that person should be detained** or that it is necessary for ... **that that person should be detained** ..." (seemingly repetitive) shows a clear recognition by the legislature of the distinction between the first limb and second limb of the said section.

The two above grounds for detention in (a) and (b) are so distinct and different in specie one to the other, that reading them conjunctively does not make for grammatical sense or consistency in the flow of the language, in contradistinction to s. 6(1) of the Act. There being nothing in the Ordinance requiring that the detention order should be in any particular form, the order should be so worded as to show, at least on its face, under which particular limb of s. 4(1) the detenu is being detained.

Compliance with this essential and mandatory procedure is necessary in order to dispel the view that the order was vague or was passed mechanically by merely reproducing the language of s. 4(1) of the Ordinance. Such matters are subject to the scrutiny of the Courts though, it is settled that once ground (a) or (b) (or even both with the conjunction "and" used) is selected by the Minister, his subjective satisfaction as to the manner of such selection and the allegations of fact to back-up same is beyond question by the Courts by virtue of s. 7C of the Ordinance (s. 11C of the Act).

It was also submitted by the Senior Federal Counsel that even in the event the Court holds that the alternative grounds for detention in s. 4(1) of the order should be read disjunctively, yet the written allegations of fact in support of the order, being Lampiran E in the first application (notably, not mentioned in the detention order itself) could, when read in conjunction with the said detention order itself, be invoked to show that the Minister had selected ground (b) above - namely the second limb of s. 4(1) of the Ordinance.

I do not agree with his submission in this respect, which appears to me to be an idle suggestion, as indeed s. 7C of the Ordinance (and s. 11C of the Act) has reduced the contents of Lampiran E (that is factual grounds of detention) to that of a virtual non-entity in the eyes of the Courts, which debars the Courts from lifting the veil to peep or peek into or to examine the factual basis of the Minister's decision. Indeed, it is precisely for this reason that the Courts have shown, in *Poh Chin Kay* (*supra*) and *Puvaneswaran* (*supra*) and a host of other cases, their vigilance in considering issues such as powers of preventive detention, matters of procedure and also the face of the detention order itself. It is settled law that the fundamental principle involved in the power given to the Minister to detain a person without trial cannot be exercised by inference. The power must be expressed, clear and unequivocal. See *Poh Chin Kay* (*supra*). For the above reasons I hold that the detention order made against the detainee in 44-65-92 is invalid and bad on the face of it for want of compliance with s. 4(1) of the Ordinance.

The second and final ground of the above applications is that the language or dialect used in explaining to the detenu at certain of the relevant three stages of the respective detentions - to ensure that the detenu understood the matters explained or informed - were either inappropriately or unsatisfactorily or not carried out by the officers concerned in accordance with the requirements.

On this issue, the nimble response from Senior Federal Counsel Mr. Noor Bahari was that the applicants were confined to the issues raised in their supporting affidavits; while he also conceded that unsatisfactory or unintelligible explanation or information to the detenu in any one of the said three stages of the detentions in the respective applications would be fatal to his case. The all encompassing, catch-all paragraph in the supporting affidavits namely "Wherefore upon the grounds aforesaid and any further grounds which may be urged on the applicant's behalf at the hearing of this application, I respectfully pray for an order that the applicant be brought up before this Honourable Court and set at liberty" or other paragraphs in terms similar to this paragraph, could not be invoked to bring such an issue within its scope - they being too generalised to oblige any response from the respondents. I agree, s. 366 of the Criminal Procedure Code enjoins the applicant to state in his supporting affidavit "... so far as they are known, the facts relating to such detention, with the object of satisfying the Court ...". It is thus inconsistent with common sense and the principles of logic for the applicant to take the stance of non awareness of the very facts that he had sought to base his application with the sole and essential object of "satisfying the Court". By virtue of this provision in the Criminal Procedure Code the issues or particular grounds ought rightly to be taken by the applicants here, notwithstanding the Indian authority in *Icchu Devi Choraria v. Union of India* [1980] 4 SCC 531; 1981 SCC (Cri) 25, which says otherwise. See the decision in Criminal Application No. 44-64-90, *Goh Thong Hua v. Menteri Hal Ehwal Dalam Negeri Malaysia & Anor.* (unreported) which was affirmed by the Supreme Court in Criminal Appeal No. 05-287-1990 and see also *Liew Kim Swee v. Menteri Dalam Negeri, Malaysia & Anor.* [1991] 1 CLJ (Rep) 672 affirmed in Supreme Court Criminal Appeal No. 05-143-1990.

The three stages aforesaid wherein the detenu has to be informed or explained to are as follows:

(i) Upon his arrest - under Article 5(3) of the Constitution. ("Article 5(3)").

(ii) Upon service of the detention order on him - under r. 3(1)(a) of the Dangerous Drugs (Special Preventive Measures) (Advisory Board Procedure) Rules 1987 ("D.D. Rules") (Section 5(2) of the Ordinance).

(iii) When the detenu is brought to the place of detention - under r. 3(3) of the Dangerous Drugs (Special Preventive Measures) (Advisory Board Procedure) Rules 1987 ("D.D. Rules") (Rule 3(1) of the Emergency Public Order and Prevention of Crime (Procedure) Rules 1972 ("Emergency Procedure Rules")).

I shall now set out the points raised, on language, *in seriatim* with the applications - for the purpose of clarity - in the respective supporting affidavits and decide whether the respondents' answers are satisfactory.

(1) **In CA No. 44-65-92**

The affidavit of Lim Choon Hiok (f) (Enc. 2) alleged breach of Article 5(3) and r. 3(1) of the Emergency Rules (but not s. 5(2) of the Ordinance) both of which are satisfactorily answered in para. 4 of the affidavit of the arresting officer Mr. Ng Boon Hong (Enc. 4),

and para. 5 of the affidavit of the Senior Press Officer Mr. Nathan a/l N.J. Pillai @ J. Raghunathan (Enc. 11). Accordingly, this other point advanced on behalf of the applicant fails.

(2) **In CA No. 44-190-90**

The affidavit of Ong Sai Tin (f) (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of the D.D. Rules. In respect of Article 5(3), the answer of the arresting officer to this is unsatisfactory in that in his affidavit Insp. Suhaimy bin Hashim (Enc. 5) had stated in para. 4 that he had explained to the detenu in the language easy for the latter to understand but he did not state what language he used. I am not satisfied that Article 5(3) had been complied with. This is fatal to the respondents.

(3) **In CA No. 44-72-91**

The affidavit of Woo Choy Kam (f) (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of the D.D. Rules. In respect of r. 3(3) of the D.D. Rules, para. 4 of the affidavit of the Superintendent of the detention centre Mr. Supri bin Hashim (Enc. 19) gave a satisfactory answer to this. However, in respect of Article 5(3), the affidavit of P.C. Eric Peter Naysadorai (Enc. 18) who acted as an interpreter - read in conjunction with the affidavit of the arresting officer Insp. Perumal a/l Alagan (Enc. 10) (which showed his uncertainty on the issue) - only said that he interpreted and explained in Kongfu the grounds of the arrest to the detenu as told by Insp. Perumal. However, he did not say how, as an Indian he came to be proficient or that he was proficient in the said dialect used. As such, I am not satisfied that Article 5(3) had been complied with. This is fatal to the respondents.

(4) **In CA 44-100-91**

The affidavit of Ah Lee @ Chua Ah Tee (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of D.D. Rules. I am not satisfied that r. 3(3) has been complied with as the two affidavits of the Superintendent of the Detention Centre (Encs. 8 and 23) Mr. Nathan a/l L.J. Pillai indicate that though he had explained to the detainee in Bahasa Malaysia yet he had also called one Chew Soon Ghee to explain again the contents to the detenu, which showed his (Mr. Nathan's) own doubt as to whether the detenu understood him. However, Mr. Chew Soon Ghee was not on affidavit to confirm that he did explain anything to the detenu. This is fatal to the respondents.

(5) **In CA 44-127-91**

The supporting affidavit of Ong Eng Hoe (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of the D.D. Rules, both of which are satisfactorily answered in the affidavits of the arresting officer A.S.P. Abdul Rahman bin Husin (para. 4 Enc. 9) read in conjunction with the affidavit of DPC Tan Poh Shen (para. 3 Enc. 19) and also the affidavit of Mr. Donald Wee May Keun, the director of the Penjara Pudu (para. 5 Enc. 21).

Though, a point was taken in Mr. Karpal Singh's further written submission that when the detention order and other necessary documents were served on the detenu, D/Kpl. Ow Chai Teik had explained to the detenu, yet the latter was not on affidavit to confirm this. I am nevertheless precluded from considering this point as r. 3(1)(a) of the D.D. Rules was not raised in Enc. 2. Accordingly, this ground fails.

(6) **In CA 44-130-91**

The supporting affidavit of Tan Swee Yong (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of the D.D. Rules, both of which are satisfactorily answered in the affidavit of the arresting officer, Insp. Zainuddin bin Abdul Aziz (para. 4 Enc. 9) read in conjunction with that of D/Sgt. Tan Hock Koh (para. 3 Enc. 22) and also the affidavit of Mr. Azmi bin Zainol Abidin, the Superintendent of the Rehabilitation Centre (para. 4 Enc. 24). A further point taken by Mr. Karpal Singh in his written submission that the detention order reveals "Teochew/Hokkien" dialect used when the order was served, which left a clear doubt as to which dialect was used. I would agree that this would be fatal to the respondents. However, r. 3(1) of the D.D. Rules was not raised in Enc. 2. Accordingly this ground fails.

(7) **In CA 44-133-91**

The supporting affidavit of Voon Hin Chean (Enc. 2) alleged breach of Article 5(3) and also r. 3(3) of the D.D. Rules both of which are satisfactorily answered in the affidavit of Inspector Mohd. Rodzi bin Rajab (para. 4 Enc. 13) read in conjunction with that of DPC Woon Pack Chee (para. 3 Enc. 18) and also the affidavit of Mr. Nathan a/l N.J. Pillai, the director of the Rehabilitation Centre (para. 4 Enc. 19). Similarly the point taken in Mr. Karpal Singh's written submission that the detention order was interpreted by DPC Lim Pun Leang in Cantonese but there was no affidavit from the latter to confirm this, I am again precluded from considering this point as r. 3(1) of the D.D. Rules was not raised in the Enc. 2. Accordingly, this ground fails.

(8) **In CA 44-159-91**

The supporting affidavit of Chai Chee Pang (Enc. 2) alleged breach of Article 5(3) and Rule 3(3) of the D.D. Rules, both of which are satisfactorily answered in the affidavit of A.S.P. Hamzah bin Md. Jamil (para. 4 Enc. 16) read in conjunction with that of DPC Chong Mook Ngian (para. 3 Enc. 22) and also the affidavit of Mr. Mohd. Zawawi bin Abdul Rohani, the Superintendent of the Detention Centre (para. 3 Enc. 23). Accordingly, this ground fails.

(9) **In CA 44-198-91**

The supporting affidavit of Tam bte. Razak (Enc. 2) alleged breach of Article 5(3) and r. 3(3) of the D.D. Rules, both of which are satisfactorily answered in the affidavits of Insp. Ghazi bin Mohd. Sawi (para. 4 Enc. 11) and the Superintendent of the Rehabilitation Centre, Mr. Hassanudin bin Haji Harun (para. 5 Enc. 14). Accordingly, this ground fails.

(10) **In CA 44-219-91**

The supporting affidavit of Chooi Mooi Kwai (Enc. 2) alleged breach of r. 3(3) of the D.D. Rules, which is satisfactorily answered in the affidavit of Mr. Abdul Majid @ Jaafar bin A. Bakar (para. 4 Enc. 16), the Assistant Superintendent of the Detention Centre. Accordingly, this ground fails.

(11) **In CA 44-39-92**

The supporting affidavit of Ng See Moi (Enc. 2) alleged breach of r. 3(3) of the D.D. Rules which is satisfactorily answered in the affidavit of Mr. Mohd. Jaffar bin Haji Yaacob, the Director of the Detention Centre (paras. 4 & 5 Enc. 19). Accordingly, this ground fails.

In respect of the second ground, another bone of contention raised in the written submission of Mr. Karpal Singh is that, different or more than one language/dialect had been used in the various three stages aforesaid wherein it is necessary to inform or explain to the detenu. In my opinion, this *per se* would not be fatal to the respondents if their affidavits in reply clearly show that the detenu did understand the material requirements explained to him/her, as it is not uncommon for Malaysians to be proficient in more than one language/dialect.

For the above reasons, I allow the writ of *habeas corpus* to issue and order that the respective applicants in CA Nos. 44-190-90, 44-72-91 and 44-100-91 be set at liberty forthwith. Whereas, *habeas corpus* writs are refused in CA Nos. 44-127-91, 44-130-91, 44-133-91, 44-159-91, 44-198-91, 44-219-91 and 44-39-92 and the applications must be and are dismissed.

As this written judgment had been completed sometime earlier and before this Court was informed by the Senior Federal Counsel Mr. Mahmud that the detention order against the applicant in CA No. 44-65-92 had been suspended ("digantung" rather than been revoked) which was only this morning confirmed by Mr. Shanmugam, my judgment is nevertheless read out as written rather than further deferred for its rehash. I however make no order in respect of CA No. 44-65-92 save that I hereby strike out the application, which reduces all my above comments in respect of s. 4(1) of the Ordinance and the application itself to that of academic interest only. This course of action that I adopt has been agreed to earlier this morning by the Counsel and the Senior Federal Counsel.

Also found at [1992] 4 CLJ 2289